

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Implementation of the Local)
Competition Provisions in the)
Telecommunications Act of 1996)

DOCKET FILE COPY ORIGINAL

CC Docket No. 96-98

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**OPPOSITION AND COMMENTS OF MCI TELECOMMUNICATIONS
CORPORATION TO PETITIONS FOR RECONSIDERATION AND CLARIFICATION**

Pursuant to Section 1.429 of the Commission's Rules and Regulations, 47 C.F.R. 1.429, MCI Telecommunications Corporation ("MCI"), by its undersigned attorneys, hereby files this Opposition and Comments to the Petitions for Reconsideration and Clarification filed in response to the Commission's Second Report and Order and Memorandum Opinion and Order.¹

I. **INTRODUCTION**

In this proceeding, MCI has consistently underscored the importance of promulgation and implementation of competitively neutral rules to ensure that robust local competition becomes a reality. MCI commends the Commission's for promulgating rules designed to destroy operational barriers to local competition in the areas of dialing parity, nondiscriminatory access requirements, network disclosure and numbering administration.² The fundamental importance of these hallmarks of local competition have not been challenged by any party to this proceeding.

¹*Implementation of the Local Competition Provision of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, FCC 96-333 (August 8, 1996) (Order).*

²*Order, ¶ 4.*

In this Opposition and Comments, MCI addresses the details associated with several of those local competition hallmarks, and sets forth MCI's positions that:

- (1) where states implement an all-services area code overlay, no exemption should be carved to the mandatory 10-digit dialing requirement;
- (2) no competitor should have the competitive advantage of delayed implementation of dialing parity requirements;
- (3) the Commission should deny the request that Bell Operating Companies (BOCs) need not provide dialing parity by February 8, 1999, unless they are authorized to provide in-region long distance services by that date;
- (4) dialing parity should be required for intraLATA toll calls between a state that has implemented intraLATA presubscription and a state that has not;
- (5) the Commission's nondiscriminatory access requirements and cost recovery methodologies for numbering administration should not be altered; and
- (6) overlays should not be implemented to relieve area code exhaust prior to implementation of permanent local number portability (LNP).

II. WHERE STATES IMPLEMENT AN ALL-SERVICES AREA CODE OVERLAY, NO EXEMPTION SHOULD BE CARVED TO THE MANDATORY 10-DIGIT DIALING REQUIREMENT

Mandatory 10-digit dialing ensures competitive neutrality in areas where all-services overlay plans have been implemented.³ The Pennsylvania Public Service Commission (PA PSC) and the State of New York Department of Public Service (NY DPS) argue that their implementation of overlays without 10-digit dialing should exempt them from the Commission's 10-digit dialing requirement.⁴ The NY DPS argues that 7-digit dialing within an NPA and 10-

³Order, ¶ 286.

⁴NY DPS Petition at p. 9; PA PSC Petition at p. 4 (requesting that the Commission refrain from mandating 10-digit dialing "where not necessary"). *See also* NYNEX Petition at pp. 13-15. The NY DPS notes its "understanding" that the 10-digit dialing parity mandate applies to prospective overlay applications only and not the existing overlay NPAs in New York. NY DPS

digit dialing between NPAs is only a perceived disparity since incumbent local exchange carriers (ILECs) can attract enough new customers to obtain as many or more numbers in the new NPA as new entrants.⁵ It further asserts that resale and portability will improve the chances of a CLEC's customer having a number from the old NPA.⁶

NYNEX already has a huge competitive advantage with respect to the number of NXXs assigned in existing NPAs. The likelihood of NYNEX needing as many or more NXXs in new NPAs is slim considering the number of NXXs assigned to it in the old NPA and the amount of end user numbers available within those NXXs. It would be patently unfair to new entrants if their customers have to dial 10 digits to place most calls, while ILEC customers could continue to place the vast majority of their calls using only 7 digits. The Commission's 10-digit dialing requirement in areas with all-services overlays addresses that disparity and should not be altered.

III. NO COMPETITOR SHOULD HAVE THE COMPETITIVE ADVANTAGE OF DELAYED IMPLEMENTATION OF DIALING PARITY REQUIREMENTS

MCI supports AT&T's request that the Commission reconsider its decision permitting non-BOC local exchange carriers (LECs) to defer implementation of toll dialing parity until February 8, 1999, or until they provide in-region interLATA or in-region interstate toll calling. The fact that a non-BOC LEC decides to enter the in-region interLATA or interstate toll market later rather than earlier is an insufficient basis upon which to bestow upon it the competitive advantage of not having to provide dialing parity. As AT&T recognized, the "grace period"

Petition at p. 9 nn. 1, 2. The NY DPS cites no basis for this understanding, however, nor does it point out any reasons why such "grandfathering" would be appropriate in the State of New York.

⁵NY DPS Petition at p. 7.

⁶*Id.* at p. 8.

ensures an uneven playing field until late 1999 since until then, customers of those non-BOC LECs will be unable to place intraLATA toll calls over the services of a competitor unless they first dial an access code.⁷ Such a result is not balanced by any consumer benefit, and thus, is contrary to the public interest.⁸

**IV. THE COMMISSION SHOULD DENY THE REQUEST THAT BOCs
NEED NOT PROVIDE DIALING PARITY BY FEBRUARY 8, 1999,
UNLESS THEY ARE AUTHORIZED TO PROVIDE IN-REGION
LONG DISTANCE SERVICES BY THAT DATE**

MCI opposes Southwestern Bell's argument that the Commission reconsider its dialing parity implementation schedule to exempt BOCs from providing dialing parity they are authorized to provide in-region long distance service.⁹ Creating such an exemption would create barriers to competition in markets where BOCs have the lion's share of the local toll market, as well as significant competitive advantages such as favorable dialing patterns. Additionally, the net effect would be that those BOCs would design their own implementation timetables, and thus delay implementation of nationwide dialing parity, since they lack any incentive to implement it quickly on their own.¹⁰

⁷AT&T Petition at p. 3.

⁸The delayed time frame also allows those non-BOC LECs the benefit of deferred costs in that they will be rewarded for not investing resources to further continued benefits to consumers that have been realized in the long distance market place. Companies such as MCI that are already vigorously competing for long distance market share will incur those costs sooner than their fellow service providers and thus, their ability to compete effectively will be diminished.

⁹Southwestern Bell Petition at pp. 6-7.

¹⁰MCI opposes the argument by the Rural Telephone Coalition that rural telephone companies should be exempted from dialing parity requirements until they have received *bona fide* requests from a toll carrier. Such exemptions would interfere with the averaged rate

V. **DIALING PARITY SHOULD BE REQUIRED FOR INTRALATA TOLL CALLS BETWEEN A STATE THAT HAS IMPLEMENTED INTRALATA PRESUBSCRIPTION AND A STATE THAT HAS NOT**

Southwestern Bell asks the Commission to clarify that when LATA boundaries encompass parts of two adjacent states, the dialing parity procedures to be followed will be those applicable to the state in which dial tone is provided.¹¹ Similarly, BellSouth asks that the Commission clarify that dialing parity be required for intraLATA toll calls that cross state boundaries only after the adjoining state implements intraLATA presubscription.¹² MCI disagrees with both petitioners because it is pointless to distinguish between intrastate, intraLATA toll calls and interstate, intraLATA toll calls for purposes of dialing parity. As MCI stated in its Petition For Clarification, the Commission should clarify that dialing parity is required for intraLATA toll calls that cross state boundaries from a state that has implemented intraLATA toll presubscription to an adjoining one that has not. Such a clarification would alleviate the enormous confusion that currently exists among consumers about which carriers can serve their local toll calling needs and under what circumstances.

requirements which further the goal of ensuring that rural subscribers pay the same rates for services as urban customers and could act as a negative incentive to companies competing in rural areas. MCI agrees with the Commission that such an exemption is undesirable and unnecessary in light of the suspension and modification procedures contained in the Act. *Order*, ¶ 61.

¹¹Southwestern Bell Petition at p. 9.

¹²BellSouth Petition at p. 6.

VI. **THE COMMISSION'S NONDISCRIMINATORY ACCESS REQUIREMENTS AND COST RECOVERY METHODOLOGIES SHOULD NOT BE DISTURBED**

A. **Nondiscriminatory Access Requirements**

MCI strongly opposes the United States Telephone Association's (USTA's) and Southwestern Bell's argument that the Telecommunications Act of 1996 (the Act)¹³ does not require ILECs to provide their directory assistance (DA) and other databases to competitors pursuant to section 251(b)(3).¹⁴ The Act's requirement of access to DA creates a duty for ILECs to incorporate listings supplied by competitors with the same level of accuracy and in the same frame as it would list its own customer information. The Order requires ILECs to provide this data to enable new entrants to populate their own DA databases. To permit ILECs to simply allow access to databases, without more, would impede this goal since CLECs have no control over service quality and dialing delays that are inherent in LEC networks.¹⁵

MCI opposes the request that all carriers, not just ILECs be required to make network disclosures and oppose request that Commission narrow its definition of the scope of the network

¹³Pub. L. No. 104-104 (Feb. 8, 1996), *to be codified at* 47 U.S.C. § 151 *et seq.*

¹⁴USTA Petition at p. 4; Southwestern Bell Petition at pp. 11-13.

¹⁵MCI opposes Ameritech's argument that the Commission should rule that in a dispute regarding nondiscriminatory access, a customer's automatic processing of incoming calls to operator and DA platforms on a first come, first served basis, is *per se* nondiscriminatory. Ameritech Petition at p. 13. Such a *per se* rule would make it impossible to demonstrate discrimination, regardless of the actual anti-competitiveness of the activity or the anti-competitive effect it had. MCI also opposes NYNEX's argument that the LECs should not be required to provide competitors with access to customer guides and information pages that appear in their printed telephone directories. NYNEX Petition at pp.7-8. This information is important in determining if LECs are adhering to competitively neutral business office practices; such a determination is necessary due to their status as the dominant carriers in regional areas.

disclosure requirement.¹⁶ To allow otherwise would excessively burden non-dominant LECs, reducing their ability to compete and pass on lower prices to end users.

MCI opposes the argument that the LECs are not required to provide requesting carriers treatment that is at least equal to that which it provides itself.¹⁷ At a minimum, LECs should be required to treat competitor's calls with the same degree of care as it treats its own calls. For example, if the LEC defines extended local calling areas, then access charges shouldn't be imposed on MCI to terminate calls in that extended local calling area.

B. Cost Recovery Methodologies For Numbering

MCI opposes NYNEX's and Southwestern Bell's argument that the Commission should change the mechanism for cost recovery of number administration. Specifically, those petitioners take issue with the Commission's allocation of number administration costs to interexchange carriers on the basis of gross revenues minus expenditures for telecommunications services and facilities that have been paid to other telecommunications carriers. *See Order*, ¶¶ 342-343.¹⁸ MCI supports the Commission's ruling because to require to allow the calculation to be based in part on expenditures for services such as access would effectively force MCI to pay twice for access, once in payment to ILECs and a second time in the allocation of costs due to inclusion of access in retail costs. Such a result is certainly not contemplated by the Act, and would effectively thwart the goal of one of the most significant benefits of competition: lower prices.

¹⁶NYNEX Petition at pp. 8-9; Southwestern Bell Petition at p. 16.

¹⁷Ameritech Petition at p. 8.

¹⁸Southwestern Bell Petition at pp. 19-20; NYNEX Petition at pp. 2-5.

VII. OVERLAYS SHOULD NOT BE IMPLEMENTED TO RELIEVE AREA CODE EXHAUST PRIOR TO IMPLEMENTATION OF PERMANENT LNP

MCI supports the arguments made by several petitioners that the Commission reconsider that overlay NPAs may be used to relieve area code exhaust prior to the time that permanent LNP is implemented, and that permanent LNP be implemented before implementation of any overlay relief plan.¹⁹ Without permanent service provider local number portability, consumers would be reluctant to switch providers if they were assigned to a number in the overlay NPA. Thus, overlays would restrict customer mobility and adversely impact competition by artificially limiting the ability of the new entrants to attract customers. Since the anticompetitive burdens created by overlays are especially great during the transition to a competitive market, they should not be implemented to relieve area code exhaust prior to implementation of permanent LNP.

In sum, the Commission should affirm its commitment to ensuring real and effective local competition for consumers by rejecting all arguments that would dispense with the 10-digit dialing parity mandate where overlays exist. Additionally, the Commission should affirm that non-BOC LECs will not be allowed the competitive advantage of delayed implementation of the dialing parity requirements. Finally, the Commission should affirm its nondiscriminatory access

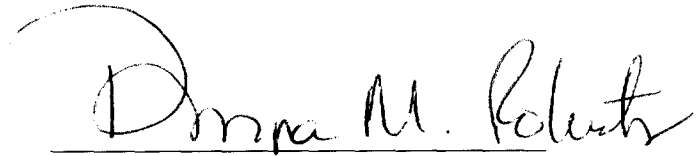
¹⁹AT&T Petition at p. 8; Cox Communications Petition at p. 5; TCG Petition at pp. 8-10; MFS Petition at p. 4.

requirements and cost recovery methodologies, and its requirement that overlays not be implemented to relieve area code exhaust prior to implementation of permanent LNP.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:

A handwritten signature in black ink, appearing to read "Donna M. Roberts", written over a horizontal line.

Donna M. Roberts

Lisa B. Smith

1801 Pennsylvania Avenue, N.W.

Washington, D.C. 20006

(202) 887-2017

Its Attorneys

Dated: November 20, 1996

CERTIFICATE OF SERVICE

I, Stan Miller, do hereby certify that copies of the foregoing **Opposition and Comments** were sent via first class mail, postage paid, to the following on this 20th day of November, 1996.

Reed E. Hundt**

Chairman

Federal Communication Commission

1919 M Street, N.W., Room 814

Washington, DC 20554

Gloria Shambley** (3)

Common Carrier Bureau

Federal Communications Commission

2000 L Street, N.W., Room 235

Washington, D.C. 20554

James H. Quello**

Commissioner

Federal Communication Commission

1919 M Street, N.W., Room 802

Washington, DC 20554

Mary DeLuca**(2)

Common Carrier Bureau

Federal Communications Commission

2000 L Street, N.W. , Room 210

Washington, D.C. 20554

Rachelle E. Chong**

Commissioner

Federal Communication Commission

1919 M Street, N.W., Room 844

Washington, DC 20554

Susan P. Ness**

Commissioner

Federal Communications Commission

1919 M Street, N.W. , Room 832

Washington, D.C. 20554

Regina Keeney**

Chief, Common Carrier Bureau

Federal Communications Commission

1919 M Street, N.W., Room 500

Washington, D.C. 20554

Gerald Matisse**

Chief, Network Services Division

Common Carrier Bureau

Federal Communications Commission

2000 M Street, M Street, Room 832

Washington, DC 20554

Richard Welch**

Common Carrier Bureau

Federal Communications Commission

1919 M Street, N.W., Room 500

Washington, D.C. 20554

Don Stockdale**

Common Carrier Bureau

Federal Communications Commission

1919 M Street, N.W., Room 544

Washington, D.C. 20554

International Transcription Service**

1919 M Street, NW

Washington, DC 20554

Jim Schlichting **

Common Carrier Bureau

Federal Communications Commission

1919 M Street, N.W., Room 518

Washington, D.C. 20554

Lisa Gelb**
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Kevin C. Gallagher
360° Communications Co.
8725 West Higgins Road
Chicago, IL 60631

Rodney L. Joyce
AD HOC Coalition
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

Bettye Gardner
Afro-American Life and History, Inc.
1407 Fourteenth St., N.W.
Washington, D.C. 20005

David A. Gross
Kathleen Q. Abernathy
AirTouch Communications, Inc.
1818 N Street, N.W., Suite 800
Washington, D.C. 20036

Mary Newmeyer
John Gardner
Alabama Public Service Commission
P.O. Box 991
Montgomery, Alabama 36101

Don Schroer
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, Alaska 99501

James Rowe
Alaska Telephone Association
4341 B Street, Suite 304
Anchorage, AK 99503

Dr. Barbara O'Connor
Mary Gardiner Jones
Alliance for Public Technology
901 15th Street Suite 230
Washington, D.C. 20005

Curtis T. White
Allied Associated Partners, LP
4201 Connecticut Ave., N.W.
Washington, D.C. 20008-1158

Carolyn C. Hill
ALLTEL Telephone Service Corp.
655 15th Street, N.W., Suite 220
Washington, D.C. 20005

Brad E. Mutschelknaus
Steve A. Augustino
Marieann K. Zochowski
American Communications Servs, Inc.
1200 19th Street, N.W. Suite 500
Washington, D.C. 20036

Alan Dinsmore
American Foundation for the Blind
1615 M Street, N.W., Suite 250
Washington, D.C. 20036

Alan R. Shark
American Mobile Telecommunications Association, Inc.
1150 18th Street, N.W. Suite 250
Washington, D.C. 20036

Danny E. Adams
Steven A. Augustino
**American Network Exchange, Inc.
and U.S. Long Distance, Inc.**
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036

Anne P. Schelle
American Personal Communications
6901 Rockledge Drive, Suite 600
Bethesda, MD 20817

Wayne V. Black
C. Douglas Jarrett
Susan M. Hafeli
American Petroleum Institute
1001 G Street, N.W., Suite 500 West
Washington, D.C. 20001

Albert H. Kramer
Robert F. Aldrich
**American Public Communications
Council**
2101 L Street, N.W.
Washington, D.C. 20037

James Baller
Lana Meller
American Public Power Association
1820 Jefferson Place, N.W., Suite 200
Washington, D.C. 20036

Charles H. Helein
**America's Carriers Telecommunication
Assn.**
8180 Greensboro Drive, Suite 700
McLean, VA 22102

Antoinette Cook Bush
Linda G. Morrison
Ameritech
1440 New York Avenue, N.W.
Washington, D.C. 20005

Paul J. Berman
Alane C. Weixel
Anchorage Telephone Utility
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

Carl W. Northrop
Christine M. Crowe
Arch Communications Group, Inc.
1299 Pennsylvania Ave., N.W., 10th Floor
Washington, D.C. 20004-2400

Christopher C. Kempley
Deborah R. Scott
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Richard J. Metzger
Emily M. Williams
**Association for Local
Telecommunications Servs.**
1200 19th Street, N.W., Suite 560
Washington, D.C. 20036

Mark C. Rosenblum
Roy E. Hoffinger
Stephen C. Garavito
Richard H. Rubin
AT&T Corporation
295 North Maple Avenue
Room 324511
Basking Ridge, New Jersey 07920

James U. Troup
L. Charles Keller
Bay Springs Telephone Co.
1801 K Street, N.W., Suite 400K
Washington, D.C. 20006

Michael E. Glover
Leslie A. Vial
James G. Pachulski
Lydia Pulley
Bell Atlantic
1320 North Court House Road, 8th Fl.
Arlington, VA 22201

John T. Scott, III
Bell Atlantic Nynex Mobile, Inc.
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004

M. Robert Sutherland
Richard M. Sbaratta
A. Kirven Gilbert III
BellSouth
1155 Peachtree Street, N.E., Ste 1700
Atlanta, GA 30309-3610

Mark J. Palchick
Stephen M. Howard
Buckeye Cablevision
1828 L Street, N.W., Suite 1111
Washington, D.C. 20036

Wiley, Rein & Fielding for
Cable & Wireless, Inc.
1776 K Street, N.W.
Washington, D.C. 20036

Michael F. Altschul
Randall S. Coleman
**Cellular Telecommunications
Industry Association**
1250 Connecticut Ave., N.W. Suite 200
Washington, D.C. 20036

Richard Rubin
Steven N. Teplitz
Centennial Cellular Corporation
1400 Sixteenth St., N.W. Suite 600
Washington, D.C. 20036

Winston Pittman
Chrysler Minority Dealers Association
27777 Franklin Road, Suite 1105
Southfield, MI 48034

Thomas E. Taylor
Jack B. Harrison
Cincinnati Bell Telephone Company
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Richard M. Tettelbaum
Citizens Utilities Company
1400 16th Street, N.W. Suite 500
Washington, D.C. 20036

Norman D. Rasmussen
Colorado Independent Telephone Assoc.
3236 Hiwan Drive
Evergreen, Colorado 80439

Robert J. Hix
Vincent Majkowski
Colorado Public Utilities Commission
1580 Logan Street, Office Level 2
Denver, CO 80203

Terrence P. McGarty
COMAV, Corporation
60 State Street - 2nd Floor
Boston, MA 02109

Howard J. Symons
Cherie R. Kiser
Russell C. Merbeth
COMCAST Corporation
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004

Gerald M. Zuckerman
Edward B. Myers
**Communications and Energy
Dispute Resolution Associates**
1825 I Street, N.W. Suite 400
Washington, D.C. 20006

Ronald J. Binz
Debra Berlyn
Competition Policy Institute
1156 15th Street, N.W. Suite 310
Washington, D.C. 20005

Reginald J. Smith
**Connecticut Department of
Public Utility Control**
10 Franklin Square
New Britain, CT 06051

Bradley C. Stillman
Dr. Mark N. Cooper
**Consumer Federation of America
and Consumers Union**
1424 16th Street, N.W., Suite 604
Washington, D.C. 20036

Frank W. Lloyd
Donna N. Lampert
Continental Cablevision, Inc.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, DC 20004

Werner K. Hartenberger
Leonard J. Kennedy
Laura H. Phillips
J.G. Harrington
Cox Communications, Inc.
1200 New Hampshire Ave., N.W.
Suite 800
Washington, D.C. 20036

**Desoto County, Mississippi
Economic Development Council**
2475 Memphis Street
Hernando, Mississippi 38632

Lawrence Crocker
**District of Columbia
Public Service Commission**
450 Fifth Street, N.W.
Washington, D.C. 20001

David C. Jatlow
Ericsson Corporation
2300 N Street, N.W.
Washington, D.C. 20036

Thomas K. Crowe
Excel Telecommunications, Inc.
2300 M Street, N.W., Suite 800
Washington, D.C. 20037

Cynthia Miller
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Michael J. Shortley, III
Roy L. Morris
Frontier Communications Servs. Inc.
1990 M Street, N.W., Suite 500
Washington, D.C. 20036

B. B. Knowles
Dave Baker
Georgia Public Service Commission
244 Washington Street S.W.
Atlanta, GA 30334-57011

Robert C. Schoonmaker
GVNW Inc./Management
P.O. Box 25969
(2270 La Montana Way)
Colorado Springs, CO 80936 (80918)

Kathy L. Shobert
General Communication, Inc.
901 15th St. N.W., Suite 900
Washington, D.C. 20005

Michael J. Ettner
General Services Administration
18th & F Streets, N.W. Rm. 4002
Washington, D.C. 20405

Maudine Cooper
Greater Washington Urban League
3501 Fourteenth Street, N.W.
Washington, D.C. 20010

William P. Barr
Ward W. Wueste
Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W., Suite 1200
Suite 1200
Washington, D.C. 20036

Eric J. Branfman
Morton J. Posner
GST Telecom, Inc.
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Hart Engineers
Robert A. Hart IV
P.O. Box 6436
Baton Rouge, LA 70896

H. Keith Oliver
Michael S. Fox
Home Telephone Company, Inc.
200 Tram Street
Moncks Corner, SC 29461

Dwight E. Zimmerman
Illinois Independent Telephone Association
RR 13, 24B Oakmont Road
Bloomington, IL 61704

Fiona Branton
Information Technology Industry Council
1250 Eye Street, N.W.
Washington, D.C. 20005

Dana Frix
Hyperion Telecommunications, Inc.
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Myra L. Karegianes
David W. McGann
Illinois Commerce Commission
160 North LaSalle Street, Ste. C-800
Chicago, Illinois 60601

Weldon B. Stutzman
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074

Robert C. Glazier
Indiana Utility Regulatory Commission
Indiana Government Center South
302 West Washington, Suite E306
Indianapolis, Indiana 46204

Earl Pace
Black Data Processors Association
1250 Connecticut Avenue, N.W.
Suite 610
Washington, D.C. 20036

Albert H. Kramer
Robert F. Aldrich
Attorneys for
Intelcom Group (U.S.A.), Inc.
2101 L Street, N.W.
Washington, D.C. 20037-1526

Jonathan E. Canis
Reed Smith Shaw & McClay
Intermedia Communications, Inc.
1301 K Street, N.W.
Suite 1100 East Tower
Washington DC 20005

William H. Smith, Jr.
Iowa Utilities Board
Lucas State Office Building
Des Moines, Iowa 50319

Christopher W. Savage
Navid C. Haghighi
Jones Intercable, Inc.
Cole, Raywid & Braverman, L.L.P.
1919 Pennsylvania Ave., N.W., Suite 200
Washington, D.C. 20006

Timothy E. Welch
Bogue, Kansas
1330 New Hampshire Ave., N.W.
Suite #113
Washington, D.C. 20036

David Heinemann
Julie Thomas Bowles
Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604

Amy E. Dougherty
Kentucky Public Service Commission
730 Schenkel Lane
P.O. Box 615
Frankfort, KY 40602

Robert J. Aamoth
Jonathan E. Canis
LCI International Telecom Corp.
1301 K Street, N.W.
Suite 1100 East Tower
Washington, D.C. 20005

Peter A. Rohrbach
Linda L. Oliver
Kyle Dixon
LDDS WorldCom, Inc.
555 Thirteenth Street, N.W.
Washington, D.C. 20004

Robert A. Mazer
Albert Shuldiner
Mary Pape
**Lincoln Telephone and
Telegraph Company**
1455 Pennsylvania Ave., N.W.
Washington, D.C. 20004-1008

Lawrence St. Blanc
Gayle T. Kellner
Louisiana Public Service Commission
P.O. Box 91154
Baton Rouge, LA 70821-9154

Stephen R. Rosen
Theodore M. Weitz
Lucent Technologies
475 South Street
Morristown, New Jersey 07962

Joel B. Shifman
Maine Public Utilities Commission
242 State Street
18 State House Station
Augusta, Maine 04333-0018

Bryan G. Moorhouse
Susan Stevens Miller
Maryland Public Service Commission
6 St. Paul Street
Baltimore, Maryland 21202

Scott Harshbarger
Daniel Mitchell
Commonwealth of Massachusetts
Office of Attorney General
200 Portland Street, 4th Floor
Boston, MA 02114

John B. Howe
Mary Clark Webster
Janet Gail Besser
Commonwealth of Massachusetts
Department of Public Utilities
100 Cambridge Street, 12th Floor
Boston, MA 02202

Andrew D. Lipman
Russell M. Blau
MFS Communications Co., Inc.
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Greg Berberich
Matanuska Telephone Association, Inc.
12110 Business Blvd.
Eagle River, Alaska 99577

Henry M. Rivera
Larry S. Solomon
J. Thomas Nolan
Metricom, Inc.
1250 Connecticut Ave., N.W.
Washington, D.C. 20036

Glen A. Schmiede
Mark J. Burzych
Michigan Exchange Carriers Association
313 South Washington Square
Lansing, MI 48933

William J. Celio
Ronald G. Choura
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48910

Richard J. Johnson
Michael J. Bradley
Minnesota Independent Coalition
4800 Norwest Center
90 South Seventh Street
Minneapolis, MN 55402-4129

Harold Crumpton
Commissioner of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Eric Witte
Attorney for the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Gene P. Belardi
MobileMedia Communications, Inc.
2101 Wilson Boulevard, Suite 935
Arlington, Virginia 22201

James N. Horwood
Scott H. Strauss
Wendy S. Lader
Municipal Utilities
1350 New York Avenue, N.W.
Suite 1100
Washington, D.C. 20005-4798

Aliceann Wohlbruck
National Association of
Development Organizations
444 North Capitol Street, N.W. Ste. 630
Washington, D.C. 20001

Martha S. Hogerty
**National Association of State
Utility Consumer Advocates**
1133 15th Street, N.W. Suite 550
Washington, D.C. 20005

John Crump
National Bar Association
1225 11th Street, N.W.
Washington, D.C. 20001-4217

Daniel L. Brenner
Neal M. Goldberg
David L. Nicoll
**National Cable Television
Association, Inc.**
1724 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Douglas L. Povich
National Wireless Resellers Assoc.
1101 30th Street, N.W., Suite 300
Washington, D.C. 20007

Ann Kutter
Douglas Elfner
**New York State Consumer
Protection Board**
99 Washington Avenue, Ste. 1020
Albany, NY 12210

Maureen O. Helmer
**New York State Department
of Public Service**
Three Empire State Plaza
Albany, New York 12223

Robert S. Foosaner
Lawrence R. Krevor
Laura L. Holloway
Nextel Communications, Inc.
800 Connecticut Ave., NW, Ste. 1001
Washington, D.C. 20006

Daniel Waggoner
NextLink Communications, L.L.C.
2600 Century Square
1501 Fourth Avenue
Seattle, Washington 98101-1688

Bruce Hagen
Susan E. Wefald
Leo M. Reinbold
**North Dakota Public Service
Commission**
North Dakota Public Service
State Capital - 12th Floor
Bismarck, North Dakota 58505-0480

Antoinette R. Wike
North Carolina Utilities Commission
430 North Salisbury Street
Post Office Box 29520
Raleigh, North Carolina 27626-0520

Stephen L. Goodman
Northern Telecom Inc.
1100 New York Avenue, N.W.
Suite 650, East Tower
Washington, D.C. 20005

William J. Balcerski
Saul Fisher
NYNEX Telephone Companies
1111 Westchester Avenue
White Plains, NY 10604

David C. Bergmann
Thomas J. O'Brien
**Office of the Ohio Consumer's
Counsel**
77 South High Street, 15th Floor
Columbus, OH 43266-0550

Steven T. Nourse
Jodi Jenkins Bair
**Public Utilities Commission
Of Ohio**
180 East Broad Street
Columbus, Ohio 43266-0573

Cody L. Graves
Bob Anthony
Ed Apple
Oklahoma Corporation Commission
P.O. Box 25000-2000
Oklahoma City, OK 73152-2000

Mark J. Tauber
Mark J. O'Connor
Omnipoint Corporation
Piper & Marbury, L.L.P.
1200 19th Street, N.W., 7th Floor
Washington, D.C. 20036

Roger Hamilton
Ron Eachus
Joan Smith
Oregon Public Utility Commission
550 Capital Street N.E.
Salem, Oregon 97310-1380

Marlin D. Ard
Randall E. Cape
John W. Bogy
Pacific Telesis Group
140 New Montgomery Street
Rm. 1530A, Fifteenth Floor
San Francisco, California 94105

Judith St. Ledger-Roty
Paul G. Madison
Paging Network, Inc.
1301 K Street, N.W.
Suite 1100 - East Tower
Washington, D.C. 20005-3317

Maureen A. Scott
Veronica A. Smith
John F. Povilaitis
**Pennsylvania Public Utility
Commission**
P.O. Box 3265
Harrisburg, PA 17105-3265

Mark J. Golden
Robert R. Cohen
**Personal Communications
Industry Association**
500 Montgomery St., Suite 700
Alexandria, VA 22314-1561

Jerome K. Blask
Daniel E. Smith
Pronet Inc.
1400 Sixteenth St., N.W., Ste 500
Washington, D.C. 20036

Joe D. Edge
Richard J. Arsenault
Tina M. Pidgeon
Puerto Rico Telephone Company
901 Fifteenth Street, N.W.
Washington, D.C. 20005

Richard N. Koch
Richard N. Koch
10 Lilac Street
Sharon, MA 02067

George Petrutsas
Paul J. Feldman
Roseville Telephone Company
1300 North 17th St., 11th Floor
Rosslyn, VA 22209

Margot Smiley Humphrey
Rural Telephone Coalition
Koteen & Naftalin, LLP
1150 Connecticut Ave., NW, Ste. 1100
Washington, D.C. 20036

James D. Ellis
Robert M. Lynch
David F. Brown
SBC Communications Inc.
175 E. Houston, Rm. 1254
San Antonio, TX 78205

Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
Sprint Corporation
1850 M Street, N.W.
Washington, D.C. 20036

Susan Drombetta
**Scherers Communications
Group, Inc.**
575 Scherers Court
Worthington, OH 43085

Reginald R. Bernard
SDN Users Association, Inc.
P.O. Box 4014
Bridgewater, N.J. 08807

James A. Eibel
**Secretariat of the Second
Network Reliability Council**
7613 William Penn Place
Indianapolis, Indiana 46256

Rebecca S. Weeks
Carl Wayne Smith
Secretary of Defense
Defense Information Sys. Agency
701 S. Courthouse Road
Arlington, VA 22204

Eric E. Breisach
Christopher C. Cinnamon
Howard & Howard
Small Cable Business Assoc.
107 W. Michigan Ave., Suite 400
Kalamazoo, Michigan 49007

R. Glenn Rhyne
**South Carolina Public Service
Commission**
Post Office Drawer 11649
Columbia, South Carolina 29211

Rodney L. Joyce
J. Thomas Nolan
**Southern New England
Telephone Company**
1250 Connecticut Ave., N.W.
Washington, D.C. 20036

Jonathan D. Blake
Kurt A. Wimmer
Gerard J. Waldron
Donna M. Epps
**Sprint Spectrum and America
Personal Communications**
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

Michael S. Fox
John Staurulakis, Inc.
6315 Seabrook Road
Seabrook, MD 20706

Chris Barron
TCA, Inc.
3617 Betty Drive, Suite I
Colorado Springs, CO 80917

Margot Smiley Humphrey
TDS Telecommunications Corp.
Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036

Philip L. Verveer
Sue D. Blumenfeld
Thomas Jones
Tele-Communications, Inc.
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

Peter A. Rohrbach
Linda L. Oliver
Kyle D. Dixon
**Telecommunications Carriers
for Competition**
Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004

Carol Weinhaus
**Telecommunications Industries
Analysis Project**
University of Florida College of
Business Administration
121 Mt. Vernon Street
Boston, MA 02108

Jot D. Carpenter, Jr.
**Telecommunications Industry
Association**
1201 Pennsylvania Avenue, N.W.
Suite 315
Washington, D.C. 20004

Alfred M. Mamlet
Philip L. Malet
Colleen A. Sechrest
**Telefonica Larga Distancia
de Puerto Rico, Inc.**
1330 Connecticut Ave., N.W.
Washington, D.C. 20036

J. Manning Lee
Teresa Marrero
**Teleport Communications
Group Inc.**
One Teleport Drive, Suite 300
Staten Island, NY 10311

Pat Wood, III
Robert W. Gee
Judy Walsh
**Public Utility Commission
of Texas**
7800 Shoal Creek Blvd.
Austin, Texas 78757

Lauri Pappas
**Texas Office of Public Utility
Counsel**
Suite 290-E
7800 Shoal Creek Blvd.
Austin, Texas 78757

Gary L. Mann
**Texas Statewide Telephone
Cooperative, Inc.**
3721 Executive Center Drive
Suite 200
Austin, TX 78731-1639

Tim Raven
Texas Telephone Association
400 West 15th Street, Suite 1005
Austin, Texas 78701-1647

Aaron I. Fleischmann
Richard Rubin
Mitchell F. Brecher
Steven N. Teplitz
**Time Warner Communications
Holdings, Inc.**
1400 Sixteenth St, N.W.
Washington, D.C. 20036

Steve Hamlen
Unicom
5450 A Street
Anchorage, Alaska 99518-1291

Perry W. Woofter
United Calling Network, Inc.
1200 29th St., N.W., Suite 200
Washington, D.C. 20007

Jenifer Simpson
United Cerebral Palsy Assoc.
1660 L St., N.W. Suite 700
Washington, D.C. 20036-5602

Anne K. Bingaman
Donald J. Russell
Luin Fitch
U. S. Department of Justice
Antitrust Division
555 4th Street, N.W., Room 8104
Washington, D.C. 20001

Jere W. Glover
David W. Zesiger
U.S. Small Business Admin.
409 Third Street, S.W., Ste. 7800
Washington, D.C. 20416

Roy M. Neel
Boo Boaldin
U.S. Telephone Association
1401 H Street, N.W., Suite 600
Washington, D.C. 20005

Robert B. McKenna
Kathryn Marie Krause
James T. Hannon
U.S. West, Inc.
1020 19th Street, N.W., Ste. 700
Washington, D.C. 20036

Jeffrey L. Sheldon
Sean A. Stokes
UTC
1140 Connecticut Ave., N.W.
Suite 1140
Washington, D.C. 20036

C.J. Cain
UTILEX, Inc.
P.O. Box 991
Greenville, NC 27834

Edward C. Addison
**Virginia State Corporation
Commission**
P.O. Box 1197
Richmond, VA 23218

Dana Frix
Mary Albert
Antony R. Petrilla
WinStar Communications, Inc.
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Raymond G. Bender, Jr.
J.G. Harrington
Peter A. Batacan
Vanguard Cellular Systems, Inc.
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036

James U. Troup
L. Charles Keller
Vartec Telecom, Inc., Transtel, et al
1801 K Street, N.W., Suite 400K
Washington, D.C. 20006

Terry A. Vann
Richard A. Finnigan
**Washington Independent
Telephone Association**
2405 Evergreen Park Drive S.W.
Suite B-1
Olympia, Washington 98502

Charles H. Kennedy
James A. Casey
Western Alliance
2000 Pennsylvania Ave., N.W.
Suite 5500
Washington, D.C. 20006

Marc A. Stone
Fred Williamson & Assoc., Inc.
2921 E. 91st Street, Suite 200
Tulsa, Oklahoma 74137-3300

Stephen G. Oxley
**Wyoming Public Service
Commission**
700 West 21st Street
Cheyenne, Wyoming 82002

Robert E. Conn
John H. O'Neill, Jr.
Norman J. Fry
Shaw, Pittman, Potts & Trowbridge
Duquesne Light Company
2300 N Street, N.W.
Washington, D.C. 20037-1128

John H. O'Neill, Jr.
Robert E. Conn
Norman J. Fry
Shaw, Pittman, Potts & Trowbridge
Public Service Company of New Mexico
2300 N Street, N.W.
Washington, D.C. 20037-1128

Raymond G. Bender Jr.
J.G. Harrington
Vanguard Cellular Systems, Inc.
1200 New Hampshire Avenue, N.W.
Washington, DC 20036

R. Michael Senkowski
Robert J. Butler
Angela N. Watkins
Wiley, Rein & Fielding
Pacific Telesis Group
1776 K Street, N.W.
Washington, D.C. 20006

Thomas E. Taylor
Jack B. Harrison
Cincinnati Bell Telephone
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Mary McDermot
Linda Kent
Charles D. Cosson
Keith Townsend
United States Telephone Association
1401 H Street, N.W., Suite 600
Washington, D.C. 20005

Robert J. Brill
Associate Counsel
New England Power Service Co.
Massachusetts Electric Company
25 Research Drive
Westboro, MA 01582

Greg P. Mackay
Perkins Coie
Puget Sound Power & Light Company
411-108th Avenue N.E., Suite 1800
Bellevue, Washington 98004-5584

Steven T. Nourse
Jodi J. Bair
**Public Utilities Commission
of Ohio Staff**
180 East Broad Street
Columbus, OH 43215-3793

Margot Smiley Humphrey
David Cosson/L. Marie Guillory
Steven E. Watkins/Ken Johnson
Lisa M. Zaina/Stuart Polikoff
The Rural Telephone Coalition
2626 Pennsylvania Ave. N.W.
Washington, D.C. 20037

Michael J. Ettner
**General Services Administration and
Department of Defense**
18th F Streets, N.W., Rm 4002
Washington, D.C. 20405

Frederick M. Joyce
Elaine D. Critides
Celpage, Inc.
1019 19th Street, N.W., Fl. - PH2
Washington, DC 20036

Richard D. Gary
Charles H. Carrathers III
Hunton & Williams
Virginia Electric & Power Company
951 East Byrd Street
Richmond, Virginia 23219

Michael A. Rump
Kansas City Power & Light Company
1201 Walnut
P.O. Box 418679
Kansas City, Missouri 64141-9679

Paul Glist
Cole, Raywid & Braverman
Continental Cablevision, Inc.
1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006

Stephen E. Morgan
Linda R. Evers
Ohio Edison Company
76 South Main Street
Akron, OH 44308

Charles C. Hunter
Hunter & Mow, P.C.
**Telecommunications Resellers
Association**
1620 I Street, N.W., Suite 701
Washington, D.C. 20006

Richard D. Gary
Charles H. Carrathers, III
Hunton & Williams
Virginia Electric & Power Company
951 East Byrd Street
Richmond, VA 23219

New Jersey Board of Public Utilities
State of New Jersey
2 Gate Way Center
Newark, NJ 07102

Robert C. Schoonmaker
GVNW Inc./Management
P.O. Box 25969
(2270 La Montana Way)
Colorado Springs, CO 80936

John D. McMahon
Mary L. Krayeske
Consolidated Edison Company of New York, Inc.
4 Irving Place- Rm 1815S
New York, N.Y. 10003

David L. Swanson
UTC and The Edison Electric Institute
701 Pennsylvania Avenue
Washington, D.C. 20004

Russell D. Lukas
Beehive Telephone Company, Inc.
1111 19th Street N.W., 12th floor
Washington, D.C. 20036

Jeffrey A. Froeschle
Florida Power Corporation
Post Office Box 14042
St. Petersburg, Florida 3373

Michael J. Shortley, III
Frontier Corporation
180 South Clinton Avenue
Rochester, New York 14646

Daniel P. Venora
The Connecticut Light and Power Company Western Massachusetts Electric Company Holyoke Water Power Company Public Service Company of New Hampshire
P.O. Box 270
Hartford, CT 06141-0270

James A. Hirshfield
Summit Communications, Inc.
3633 136th Place Southeast, Suite 107
Bellevue, Washington 98006

John H. O'Neill, Jr.
Robert E. Conn
Norman J. Fry
Shaw, Pittman, Potts & Trowbridge
Public Service Company of New Mexico
2300 N Street, N.W.
Washington, D.C. 20037-1128

Peter Arth, Jr.
Edward W. O'Neill
Mary Mack Adu
People of the State of California and the Public Utilities Commission of the State of California
505 Van Ness Avenue
San Francisco, CA 94102

Richard J. Metzger
Emily M. Williams
Association for Local Telecommunication Services
1200 19th Street, N.W., Suite 560
Washington, D.C. 20036

M. Robert Sutherland
Richard M. Sbaratta
A. Kirven Gilbert, III
Theodore R. Kingsley
Bellsouth
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610

John M. Goodman
Betsy L. Anderson
Lawrence W. Katz
Karen Zacharia
Bell Atlantic
1320 North Court House Road, 8th Fl.
Arlington, VA 22201